1

2

3

4

5

6

7

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

8

UNITED STATES OF AMERICA,

9

Plaintiff,

10

v.

11

JUDESTIN ALEXANDER ARCASA,

12

Defendant.

Case No. CR07-5681 FDB

ORDER DENYING MOTION FOR
RECONSIDERATION RE BRADY
MATERIAL

13

14

15

16

17

18

19

20

21

22

23

24

25

26

     This matter comes before the Court on Defendant's motion for reconsideration of this Court's Order denying Defendant's motion to compel examination and production of personnel and employment files of testifying agents and government employees to the extent the Defendant seeks to compel examination of the personnel and employment records of local law enforcement.

     Pursuant to Local Rules W.D. Wash. CR 7(h)(1), motions for reconsideration are disfavored, and will ordinarily be denied unless there is a showing of (a) manifest error in the prior ruling, or (b) facts or legal authority which could not have been brought to the attention of the court earlier, through reasonable diligence. Petitioner has not made the requisite showing as to either of the grounds for reconsideration under CR 7(h)(1). As indicated in the Order, under the Ninth Circuit decision United States v. Dominguez-Villa, 954 F.2d 562 (9th Cir. 1992), the government is not obligated to review state law enforcement files not within its possession or control. The prosecution

ORDER - 1

1   has no obligation to turn over materials not under its control, including personnel files of state law

2   enforcement witnesses. Id., at 566. See also, U.S. v. Colima-Monge, 962 F. Supp. 1337 (D. Or.

3   1997). Materials under its control includes evidence known to the others acting on the government's

4   behalf in the case. As previously addressed, there is no evidence that the local state law enforcement

5   officers were acting on the government's behalf.

6   ACCORDINGLY;

7   IT IS ORDERED:

8   Defendant's Motion for reconsideration [Dkt. # 42] is **DENIED**.

9   DATED this 24th day of March, 2008.

10

11

12

    FRANKLIN D. BURGESS
    UNITED STATES DISTRICT JUDGE
13

14

15

16

17

18

19

20

21

22

23

24

25

26   ORDER - 2